

IDENTITY THEFT AND CRIMINAL RECORDS

Identity theft is very much a part of our world today. Its victims can have their credit histories ruined, or have their personal identifying information attached to the criminal record of another individual.

BCI is aware that there are many innocent victims of identity theft who have their information attached to a criminal record, and our staff is willing to help those affected. Following are some steps that the victim needs to take to begin the process of removing his name or other identifying information from a criminal record at BCI.

First, the victim needs to fill out the correct BCI Form (Form 98-1-03 revised 08/02-Application for Criminal History Record Review) to request a copy of a criminal record. The victim needs to mention that he is the victim of identity theft and believes that his name or other identifying information has been used in connection with criminal activity. This can be done at our office at 3888 West 5400 South in Salt Lake City or through the mail. (The form can be downloaded from the BCI web site at www.bci.utah.gov/Records/RecOwnRecord.html) If the fingerprints on the matching criminal record do not match the victim's fingerprints he will not receive a copy of the criminal history report.

Once BCI verifies that he is not the person of record, the victim will need to request that a 'Not Ident' letter be issued from BCI. This letter will be notarized and have a BCI embossed seal for authenticity.



The victim must then petition the arresting agency, booking agency, and prosecutor's office to have them remove his information from their records. Unfortunately, we only control the records that are received at BCI.

BCI will need a letter or order from one of the above agencies requesting that the victim's information be removed from the BCI and FBI criminal history files. Once BCI has received this order, the information will be removed from BCI and FBI files.

Unfortunately, there is no guarantee that the identity thief will not use the victim's information on later arrests. The victim's information may appear again on a criminal record, and he will need to start the clearance process all over again.

BCI has no control over criminal records from other states. If the victim's identifying information is being used on a criminal record from a state other than Utah, he will have to contact that state directly to find out about their policies and procedures.

Other helpful information on identity theft/fraud is found on the Federal Trade Commission's website at www.consumer.gov/idtheft.

NEWSLETTER CHANGES

The BCI Newsletter, which has previously been published four times a year, will now be published six times a year.

It is our hope that publishing more Newsletters each year will disseminate information more quickly and make the material easier to access.

The BCI Newsletter is available on our web site at <http://www.bci.utah.gov/Admin/Newsletter.html>. It is also e-mailed to agency TACs. If you are a TAC that is not getting the Newsletter e-mailed to you, please contact Adrienne at asowards@utah.gov.

NON-TERMINAL AGENCY TAC'S

👉 **ATTENTION! NON-TERMINAL AGENCY TACS!** 👈

MYTH: TAC's at non-terminal agencies have it easy because the terminal agency TAC does all the work.

FACT: Sorry. Non-terminal agency TACs have almost all the same responsibilities as terminal agency TACs.

TACs at non-terminal agencies are still responsible for training agency personnel on applicable UCJIS issues. Agency administration must be trained on UCJIS issues that will effect the agency. The TAC must make sure that agency personnel who deal with UCJIS information are trained and tested on privacy and security issues.

If the non-terminal agency TAC does not attend mandatory training sessions or conferences, the terminal agency TAC must make sure to train the non-terminal agency TAC on items presented at the training. Even non-terminal agencies need to have the latest BCI manuals on site. These can be obtained through the terminal agency TAC.

The non-terminal agency TAC must verify the completeness and accuracy of all NCIC Entries for their agency – even if NCIC Entries are entered by the terminal agency.

UCCH and III inquiries made with the non-terminal agency ORI must use appropriate purpose codes. The entries in the “auditing purpose” and “requestor” fields must be in accordance with BCI and NCIC policy.

Non-terminal agencies that disseminate UCJIS information to another agency must sign a non-disclosure agreement with that agency.

All agencies that access UCJIS information will be audited – even non-terminal agencies!

It is important that non-terminal agencies have a good working relationship with their terminal agency. Cooperation between the two will increase system effectiveness and reduce liability.

▶ **The non-terminal agency is ultimately responsible for everything (NCIC entries, inquiries, etc) that has the non-terminal agency ORI on it.**

NCIC CONCERNS

Some items to be addressed regarding NCIC policy and use:

First, NCIC and BCI policies state that an NCIC inquiry must be made prior to issuing a citation or placing a person under arrest and prior to booking. Also, an NCIC inquiry must be made prior to release from incarceration. This is to include if an individual appears in court on a warrant or is sent to booking directly from court. Please remind your booking agencies that prior to booking and prior to release, an NCIC inquiry should be made to ensure that no additional warrants or NCIC detainers exist.

Also, when your agency receives a hit on NCIC, it is imperative that you follow NCIC hit confirmation procedures to confirm the hit as well as receive additional information from the entering agency. Recently a missing person was recovered by a local law enforcement agency that wanted to question the person regarding some possible abuse taking place in their home but the child was released to the parents prior to the hit being confirmed. Likewise, if your agency gets a hit on a vehicle, policy states that you must confirm the hit prior to releasing the vehicle. The entering agency may wish further processing by their investigators while on scene. In this type of instance the vehicle should not be towed or released to the owner until the hit is confirmed and additional information received from the entering agency.

Last, please ensure that each NCIC entry is complete with as much information that is available entered. Officers should be instructed and encouraged to provide additional information to be entered into the MIS field or attached to the entry using the supplemental transactions. Too often pertinent information is left off or neglected resulting in not only an increase of liability but also endangering officers who may contact this person. Particularly, information regarding processing that should take place if a hit is received should be entered into the MIS field.

GUN SALES TO CALIFORNIA RESIDENTS

Gun sales by Utah FFL dealers to California residents must now go through an FFL Dealer in California. For further information see our web site at www.bci.utah.gov/Brady/BrStates.html

BACKGROUND CHECKS PRIOR TO WEAPON RELEASE

A Washington state agency is currently facing a civil suit because it released a firearm to a person disqualified from possessing a firearm under federal law. Without conducting a criminal history record check, the agency released a .22 caliber rifle to the subject who had a felony conviction for manslaughter. Eight months later the subject shot and killed a person using the firearm.

BCI and NCIC both allow agencies to utilize the UCJIS files when checking a subject prior to releasing a firearm. When making the check use Purpose Code "F" and document the reason for the check in the dissemination log.

BCI also encourages law enforcement to call our "Brady" section to find out if an individual is prohibited from firearm possession.

BCI's Brady personnel can be reached between 9 am to 7 pm at 801-965-4867. Firearms Supervisor Joyce Carter can be reached at 901-965-3810.

Many law enforcement agencies are unaware of all the criteria for restrictions. BCI also has access to files that law enforcement cannot check, such as the mental file and the ICE (INS.) In addition, BCI also checks NCIC, III, UCCH, and SWW. Restriction determination is made based on state and federal statute.

(Portions of the above from the Idaho State Police's *Ida Rap*, November 2003 Edition.)

NEW OFFENSES TO BE KEPT ON UCCH FILES

With the increase in DUI arrests and the concern over this increase, BCI will now be keeping two previously non-retainable offenses as part of a criminal history record. Beginning January 1, 2004 the following offenses on the Utah Computerized Criminal History (UCCH) files:

Minor in possession of alcohol (18 to 21 years old) - use NCIC charge code 4104

Open Container (not in vehicle) - use NCIC code 4199

Please pass this information to all personnel, and thank you for your cooperation in this matter.

MISUSE OF CRIMINAL HISTORY RECORDS

Misuse of information on criminal history records violates Utah law, and must be reported to BCI immediately.

Utah Code 53-10-108 (11) "(a) Misuse of access to criminal history record information is a class B misdemeanor. (b) The commissioner shall be informed of the misuse."

And if you think that no one ever actually gets charged with misuse of criminal history records, think again! On December 4, 2003 a former Utah law enforcement chief administrator was convicted of Class B Misdemeanor Misuse of Records and fined \$3,700.

If you have knowledge of such misuse happening at your agency, please have your TAC or agency administrator contact Nannette Rolfe at BCI.

OFFICER SAFETY AND WEAPON INFORMATION ON UCCH

BCI receives many fingerprint cards and dispositions that list the charges of "Aggravated Assault" or "Possession of a Dangerous Weapon." Unfortunately, the weapon used in the offense is often not given. (i.e., knife, firearm, axe, etc.)

BCI asks that submitting agencies begin letting us know the weapon(s) used.

The main reason for knowing the weapons is for **officer safety**. Law enforcement needs to know if the person carries weapons and uses them to commit assaults. This weapon information is also be listed at the top of his/her rap sheet – provided that you let us know what was used!

COURTS AND SWW DISSEMINATION

Courts – What do you do if an individual contacts you and wants to know if he has any outstanding warrants in Utah?

First, keep in mind that SWW information is covered by the same privacy and security laws that govern other state and federal criminal history information. Certain procedures must be followed to ensure proper dissemination of SWW information.

Never give out SWW information over the phone. Instead, request that the individual come in to your office and present current picture ID.

Once the person's identity has been confirmed, a limited amount of information may be given out. If he has an outstanding warrant out of a Utah court other than your own, you may tell the individual what court the warrant is out of, and give him the warrant number. Any further information may NOT be given out, and a printed copy of the warrant must not be given to the individual.

If the warrant is out of your court, you may handle the dissemination as you choose.

Remember, you must first confirm the individual's identity with valid picture ID. After that, you may only give out the name of the issuing court and the warrant number.

The individual may also come to BCI to find out warrant information. However, BCI does not give out warrant information over the phone, so please do not have members of the public call us for this purpose.

CHANGES AT BCI

Once again, BCI is doing the Personnel Shuffle...

Unfortunately (for us!) Manager Bruce Brown left BCI in October for a position with the Uintah Basin Communications Center. Bruce was with BCI for fifteen years and he will be greatly missed. However, we're glad he's still with state law enforcement so we can continue to harass, er, *keep in touch* with him!

Alice Erickson is the new BCI Manager over the AFIS and Firearms Sections. Valorie Webster is the new AFIS Supervisor, and Lauralee Blue is the new Quality Assurance (TWX) Supervisor.

We're looking forward to the fresh perspectives that the new personnel will bring to their positions, and wish them luck in their endeavors!

Congratulations!

UCR/IBR

It's time to start work on the 2003 *Crime in Utah Report*!

Please make sure your complete 2003 UCR/IBR data is in to us as soon as possible so that your agency may be accurately represented in this publication.

If you have questions about your agency's UCR reports please contact Della at 801-965-4454. For questions about NIBRS reports please contact Mary Ann at 801-965-4812.

Congratulations to the Southern Utah University PD, which *still* has not had a NIBRS error since they began submitting in January of 2000.

Kudos also to the following agencies who have had an average error rate below 0.7% from January 2002 to September 2003. (And submitted a full 21 months of data):

BYU PD, Carbon County Sheriff, Clearfield PD, Duchesne County Sheriff, Grantsville PD, Layton PD, Logan PD, Murray PD, Naples PD, Price PD, Provo PD, Sandy PD, South Salt Lake PD, Tooele PD, West Jordan PD, West Valley PD, and Woods Cross PD.

MISSING PERSON INFORMATION

AMBER ALERTS

Remember -The Utah Amber Alert is no longer transmitted via fax.

It is now initiated with the UAA transaction on UCJIS. For further information please contact Gina McMahon at 801-965-4686.

For additional information BCI's Amber Alert Presentation (Microsoft PowerPoint® format) can be viewed or downloaded from the TAC website. More information on Utah Amber Alerts can also be obtained on the Utah Attorney Generals web site at www.attygen.state.ut.us/AL/amberawenf.htm

FORWARD NEWS ITEMS TO: B.C.I., FIELD SERVICES, 3888 W 5400 S, BOX 148280, SALT LAKE CITY UT 84114-8280

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